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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/755,207 | 01/05/2001 | Tao Chen | PA010098 | 5300 |

23696 7590 01/15/2004

Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego, CA 92121-1714

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| EXAMINER |
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NGUYEN, TU X

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| ART UNIT | PAPER NUMBER |
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2684

DATE MAILED: 01/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/755,207

Applicant(s)

CHEN ET AL.

Examiner

Tu X Nguyen

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4, 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. In view of the amendment filed on 12/22/03, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6 and 8-9, are rejected under 35 U.S.C. 103(a) as being unpatentable over Chheda et al. (US Patent 6,160,999) further in view of Pittampalli et al. (US Pub 2002/0114288).

Regarding claims 1 and 6, Soliman discloses a wireless communication system, a method for call recovery comprising:

transmitting a pilot strength measurement message at a first transmit power level (see col.8 lines 35-52);

waiting a predetermined time period (see col.12 lines 20-21, "periodically" corresponds to "a predetermined time period"); and

transmitting the pilot strength measurement message at a second transmit power level, wherein the second transmit power level is greater than the first transmit power level (see col.12 lines 9-67).

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Chheda et al. fail to disclose "call recovery".

Pittampalli et al. disclose "call recovery" (see par. 0019). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Chheda et al. with the above teaching of Pittampalli et al. in order to provide action to establish or receiver-establish calls by detects weak forward link conditions.

Regarding claim 2, the modified Chheda et al. discloses the second transmit power level is a maximum transmit power level (see Chheda, col.12 lines 25-67).

Regarding claims 3 and 8-9, the modified Chheda et al. discloses everything as claim 1 above. More specifically, the modified Chheda et al. discloses a computer program stored on a computer readable medium (see Pittamalli et al., par. 0040).

Regarding claim 4, the modified Chheda et al. discloses everything as claim 1 above. More specifically, the modified Chheda et al. disclose incrementing a transmit power level prior to receiving a hand-off direction message (see Chheda et al. col.11 lines 3-22).

Regarding claim 5, the modified Chheda et al. discloses transmitting a pilot strength measurement message at each transmit power level (see Chheda, col.1 lines 34-65 and col.12 lines 9-24).

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4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chheda et al., in view of Pittampalli et al. and further in view of Odenwalder et al. (US Pub 2002/0097780).

Regarding claim 7, the modified Chheda fails to disclose the pilot strength measurement message includes a preamble message.

Odenwalder et al. disclose the pilot strength measurement message includes a preamble message (see par. 0043). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Chheda and Pittampalli with the above teaching of Odenwalder in order to provide the optimal channel conditions can be determined at a base station through information transmitted by a remote station.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu Nguyen whose telephone number is (703) 305-3427. The examiner can normally be reached on Monday through Friday from 8:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MAUNG NAY A, can be reached at (703) 308-7749.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 2600 Customer Service Office at (703) 306-0377.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314 (Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

TN

January 6, 2004


NAY MAUNG
SUPERVISORY PATENT EXAMINER